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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,424	10/21/2003	Lisa LeMinh	KCC 4981	3822
321	7590	10/31/2005		
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			EXAMINER HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,424

Applicant(s)

LEMINH ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 19-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) 1-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date various (9).
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: (1) an absorbent article with a securement zone comprising a central portion and outside portion(s) wherein the width of the central portion is greater than the width of the outer portion(s), (2) an absorbent article with a securement zone comprising a central portion and outside portion(s) wherein the outside portions are disposed inward of the side edges of the article by at least 1", (3) an absorbent article with a securement zone comprising a central portion and outside portion(s) wherein the width of a central portion of said zone is at least 20% of the width of the article in that same zone area, and the width of the outer portion(s) is less than 20% of the width of the article at that same zone area, and (4) an absorbent article with a securement zone comprising outside portion(s) disposed within 1" of the outside edges of the article.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 19, 35 and 52 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the

limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Richard Bridge on October 20, 2005 a provisional election was made with traverse to prosecute the invention of species (1), claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-52 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statements

The information disclosure statements (IDS) submitted on January 26, 2004, August 16, 2004, September 2, 2004, October 22, 2004, December 13, 2004, February 28, 2005, April 15, 2005, August 9, 2005 and September 19, 2005 were each filed after the mailing date of the Application on October 21, 2003. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen et al (U.S. Patent No. 6,695,827).

With respect to **Claim 1**: Chen teaches sanitary napkin 70 (Fig. 4) having longitudinal and lateral axes and a central absorbent member 78 with wicking portions 71 disposed on either side of member 78 so as to be transversely opposed to one another. (Col. 20, lines 27-32) Wicking members 71 span substantially the entire length of napkin 70 connecting the two longitudinally opposed end regions. Napkin 70 is further comprised of a topsheet 85 and backsheet 82 (Fig. 5) (Col. 20, lines 54,55,66) Chen teaches attachment points 91 wherein the absorbent material is attached to backsheet 82. (Col. 21, lines 48-51) Central absorbent member 78 has an inherent width that is capable of being determined by the Securement Zone Measuring Method as set forth by Applicant. As can best be seen from Figure 4, the width of central absorbent member 78 is substantially greater than that of each of wicking portions 71.

With respect to **Claims 2-5**: With respect to Claims 2-4, Chen teaches that the length of member 78 can be from 2 cm to 6 cm and the length of napkin 70 can be between 15-30 cm, therefore the average length of member 78 is between 7-60%. With respect to Claim 5, since

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the length of napkin 70 ranges from 15-30 cm and member 78 ranges in length from 2 to 6 cm, an end boundary of member 78 will be spaced from an end of the absorbent article by a distance of between 0 and 14 cm, or between 0% and 93% of the length of napkin 70.

With respect to **Claim 6**: Chen teaches that attachment points 91 comprise adhesive. (Col. 21, lines 49-51)

With respect to **Claim 7**: Chen teaches that the adhesives disposed in backsheet 82 are comprised of hot melt adhesives added to the absorbent article while molten (Col. 15, lines 13-17), said article being comprised of a meltblown layer. (Col. 13, lines 45-50)

With respect to **Claim 8**: As stated with respect to Claim 1, Chen teaches wicking members 71 that extend from one end of napkin 70 to the other. (Fig. 4)

With respect to **Claims 9-12**: Chen teaches outer absorbent member 74 split into two side edge regions (Fig. 4). Chen teaches that napkin 70 has a transverse width between 4-8 cm and that central absorbent member 78 has a width between 2-6 cm, therefore the outer boundaries of central absorbent member 78 are disposed at least 1" away from the outer edges of napkin 70, and the width of member 78 is between 25% and 75% of the width of napkin 70, and therefore also that wicking members 71 cannot have a width of more than 20% of napkin 70.

With respect to **Claim 13**: Chen teaches longitudinally extending shaping lines 77 (Figs. 6,7) that are comprised of adhesive points that form creases to allow napkin 70 to retain its shape against deformation during wear. Since these creases are formed on the surface facing the

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wearer's skin, Examiner is concluding that topsheet 85 must also be bonded at said points to the top layer of the absorbent core material. Therefore the absorbent material, including member 78 is bonded via adhesive both to the backsheet 82 and the topsheet 85 within the area bounded by the outer boundary of wicking members 71 and attachment points 91.

With respect to **Claim 14**: Chen teaches that wicking members 71 are formed from backsheet material that is stretched so as to rise above the plane of the backsheet into the wicking barrier zone 71, therefore the backsheet 82 is stretchable.

With respect to **Claim 16**: Chen teaches that the absorbent material is comprised of any material well-known in the art (Col. 9, lines 18-24), substantially all of which are also known to be nonstretchable.

With respect to **Claim 17**: As can best be seen from Fig. 4, the attachment zone which is defined by the outer edges of central member 78 and attachment points 91 extends into both end regions of napkin 70.

With respect to **Claim 18**: As stated with respect to Claims 2-5 and 9-12, Chen teaches ranges for the distance between the outer edge of member 78 and a longitudinally opposed end of napkin 70, therefore said member 78 is capable of being positioned nearer said one of longitudinally opposed edges of napkin 70.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al ('827) in view of Hamilton et al (U.S. Patent No. 6,667,424).

With respect to **Claim 15**: Chen does not teach that either topsheet 85 or backsheet 82 is elastic. Hamilton teaches an absorbent article 20 comprised of backsheet 26 that is elastically extensible (Col. 30, lines 15-18). Hamilton defines elastically extensible as synonymous with elastically stretchable (Col. 4, lines 37,38). Hamilton teaches that any material known in the art for this purpose can be used, therefore it would be obvious to construct the backsheet 82 of Chen of this material as taught by Hamilton as the material, as well as its use, is also well known in the art and elastic materials are well known for providing increased flexibility and comfort to the user during wear.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

